

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NICOLAS GOUREAU, and STEPHANIE  
MENKIN, individually and derivatively on  
behalf of GOOBERRY CORPORATION,

Plaintiffs,

– against –

MARCUS LEMONIS, ML RETAIL, LLC,  
MARCUS LEMONIS LLC, and MACHETE  
CORPORATION d/b/a MACHETE  
PRODUCTIONS,

Defendants,

– and –

GOOBERRY CORPORATION,  
Nominal Defendant.

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DATE FILED: 11/22/21

**ORDER**

20-cv-4691 (MKV)

MARY KAY VYSKOCIL, United States District Judge:

On October 15, 2021, the Court entered an order granting Defendants’ Motion to Dismiss certain counts pursuant to Federal Rule of Civil Procedure 12(b)(6), abstaining from the Plaintiffs’ request in Count 13 for dissolution of the Nominal Defendant in this case, and setting a deadline in connection with Plaintiffs’ anticipated motion to amend. [ECF No. 89]. The October 15 Order followed a previous order entered on September 2, 2021 that granted Defendant’s Motion to Dismiss for failure to state a claim with respect to Plaintiffs’ federal Racketeer Influenced and Corrupt Organizations Act claim. [ECF No. 77].

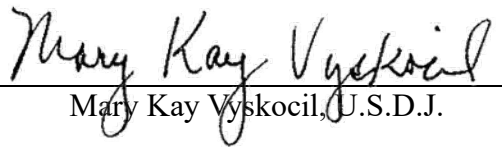
Before the Court resolved the Motion to Dismiss, Plaintiffs had sought leave to file an amended complaint in this action. [ECF No. 69]. In its October 15 Order, the Court set a briefing schedule for any motion to file a second amended complaint. The Court stated that “[a]ny motion for leave to file a second amended complaint, which must take into account the issues raised [in its Orders], shall be filed on or before November 19, 2021.” Plaintiffs did not seek leave to amend and instead filed a notice of voluntary

dismissal pursuant to Rule 41(a)(1)(a)(i). The Parties then filed seriatim letters, which the Court has reviewed. [ECF Nos. 91-96].

The Court permitted Plaintiffs to seek leave to amend on or before November 19, 2021. The Court received no motion to amend by that date. Accordingly, the Clerk of the Court respectfully is directed to close this case.

SO ORDERED.

Dated: November 22, 2021  
New York, New York

  
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Mary Kay Vyskocil, U.S.D.J.